



He Claims He's Fallen and He Can't Get Up! What Now?

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The year was 2006

- iTunes had its 1 billionth song downloaded.
- *Pirates of the Caribbean, Dead Man's Chest* is the #1 movie.
- Dick Cheney shot his friend in the face while hunting,

And...

The year was 2006

Clyde Claimant

is introduced at the:

**9th Annual Tennessee
Workers' Compensation
Education Conference**

The year was 2006

Clyde Claimant

Video:

<http://youtu.be/knyrIWNtiA4>

Was the employer correct when he said that Clyde was too late to report his claim?

A. Yes

✓ B. No



TCA 50-6-201(a)

Every injured employee or the injured employee's representative shall, **immediately upon the occurrence of an injury**, or as soon thereafter as is reasonable and practicable, give or cause to be given to the employer who has no actual notice, written notice of the injury...

TCA 50-6-201(a) says that an injured worker should “immediately” report a workplace injury to the employer. What does “immediately” mean?

0% **A. Before the end of the shift**

0% **B. Within 24 hours**

0% **C. Within 48 hours**

0% **D. Whatever the company policy states**

0% **E. Within 30 days**

TCA 50-6-201(a)

...No compensation shall be payable under this chapter, unless the written notice is given the employer within **thirty (30) days** after the occurrence of the accident, unless reasonable excuse for failure to give the notice is made to the satisfaction of the tribunal to which the claim for compensation may be presented.

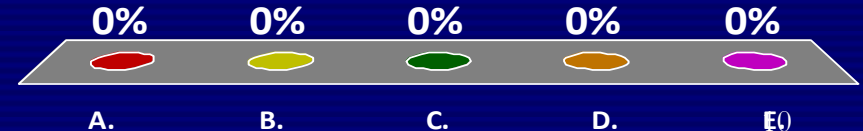
Possible Employer Defenses

Based only on what was shown in the video, might the employer prevail using any of these:

- Notice
- Willful misconduct
- Refusal to use a safety device
- Others?

To be safe, what else should the employer have done after Clyde provided notice of his injury?

- A. Provide a panel of physicians
- B. Have Clyde sign a medical waiver
- C. Give Clyde the name of a good lawyer
- D. Only a & b above
- E. All of the above



Employer's Best Course of Action

Even if the employer believes that the claim might not be compensable, we recommend:

- Taking a written statement
- C-20 First Report of Injury
- C-42 Panel of Physicians
- C-31 Medical Waiver signed (current law)
- C-41 Wage Statement

Proper Forms

The **Panel of Physicians Form** and the **Wage Statement** must be provided on the Division's forms.

A panel of physicians provided orally, or on another form is not valid.

Here is a link to the forms page:

<http://www.tn.gov/labor-wfd/mainforms.shtml>

Many of these are in “fillable format”.

Common Mistakes

- **An adjuster is required to contact the injured worker within two days of the report of injury.** This is to verify job duties, work history, facts of the claim and wages.
- If an adjuster knowingly and willfully fails to file a Wage Statement—on the Division's form—the remedy is for the Specialist to order temp benefits at the statutory maximum comp rate.

How long after obtaining a signed Medical Waiver and Consent Form (C-31) does an adjuster have to confirm details concerning the injury, treatment and preliminary compensability determination?

A. 24 hours

✓ B. 48 hours

C. 72 hours

D. None of the above



Regarding the Wage Statement

The wage statement should show:

- the **gross wages** earned, including overtime, bonuses, etc.
- **each week for the fifty-two (52) weeks** prior to the injury.

If the injured employee was employed less than 52 weeks, a wage statement of an employee in a similar situation should be used.

Employers are required to report an injury to their adjuster only if they believe the claim is compensable.

A. True

✓ B. False



If an adjuster submits a C-20 First Report of Injury Form, it means that the carrier has accepted compensability.

A. True

✓ B. False

0%

0%

A.

B.

A First Report of Injury is not required in a work-related death.

A. True

✓ B. False



0800-2-1-.06—First Report of Injury

Each employer, self-insured employer, and/or insurance company shall file with the Director an accident report, Form C-20 (Tennessee Employer's First Report of Work Injury), **which records each and every accident resulting in a work-related death or personal injury** as defined in TCA §50-6-102.

...Form C-20 shall be submitted to the Director as soon as possible, but not later than fourteen (14) days after the accident.

Common Mistakes

0800-2-14-.04(7) Decisions on workers' compensation insurance coverage and compensability shall be made within fifteen (15) days of verbal or written notice of accident...

Claimants and employers shall be notified of the decision of compensability within fifteen (15) days of verbal or written notice of accident.

If the investigation takes longer, benefits should be provided during the investigation.

Alarming Statistics

In 2012:

- There were **33 TOSHA-reported workplace fatalities**.
- Of those, **10 (or 30.3 %)** had **no C-20 filed**.

Claims Form Penalties

If an adjuster is unsure about compensability, file the form—you can still deny the claim later if new information is obtained.

Claims Form Penalties

A **rejected** EDI filing is not a filing.

To avoid a potential penalty, make sure the EDI filing is **accepted** by the Division.

Common Mistakes

Important Point:

If a claim has been reported to the Division on a C-20 but no temp benefits have been paid:

- the C-23 (Notice of Denial) is the proper form to contest the claim,
- not the C-27 (Notice of Controversy).

A C-27 should be filed with the Division if temp benefits are stopped after they have started.

Claims Form Penalties

First Report of Injury (C-20)

- Due no later than 14 days after the accident
- **\$25.00 for each 15 days late**

Notice of First Payment (C-22)

- Due immediately
- **\$10.00 for each 15 days late**

Claims Form Penalties

Notice of Denial (C-23)

- Due immediately
- **\$10.00 for each 15 days late**

Notice of Change or Termination of Benefits (C-26)

- Due immediately
- **\$10.00 for each 15 days late**

Claims Form Penalties

All claims form violations have a strict liability standard applied.

The only question is:

“Was the form filed timely?”

Excuses don't apply here!

Alarming Statistics

It is not just a failure of the employer to timely notify the carriers:

Carriers made these mistakes when filing:

- 1 C-20 was filed before the Date of Injury
- 9,906 C-20s were filed at least 16 days after the carrier received notice from the employer
- 17,969 C-20s were filed without providing a date that the carrier received notice from the employer
- 27.6% of the 100,973 C-20s were filed incorrectly.

**A court-approved Settlement is
not final unless the SD-1 is filed
with the Division.**

✓ A. True

B. False



TCA 50-6-244(b)(5)

“A settlement order of a court in a workers’ compensation matter **is not final until the statistical data form required by this section is fully completed and filed with the appropriate clerk of the court.**”

Alarming Statistics

Also in 2012:

- There were **13,673 Court Orders** filed.
- Of those, **2,998(or 21.9 %)** had **no SD-1 filed.**

Thank you for attending!
Any Questions?

